



— Progress Report #1 —

Description and Status Report on Ecology Actions Per Competitiveness Council Recommendations

[12/11/01 — 2/28/02]

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Presented to
Washington State Competitiveness Council
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progress report should be directed to:

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Note: Any and all feedback will be greatly appreciated!

I. Summary — Overview of Ecology Actions

The Washington Competitiveness Council issued its final report to the Governor in December 2001. A significant number of the issues and challenges raised by the council spoke to concerns from the state's business community that Washington's regulatory climate was unfavorable in general, and that the Washington Department of Ecology (Ecology) was in particular an unfriendly regulatory presence for businesses wishing to locate or expand in the state.

Since the release of the Competitiveness Council's final report on December 11, 2001, and then the Governor's subsequent response, Ecology has initiated a number of actions to address the business community's concerns. These actions are summarized and organized below through three immediate and near-term Ecology goals, and then more fully described in the body of this report and its subsequent appendices. Also described are several actions that Ecology has been working on for a longer period of time, but which are directly related to the Competitiveness Council recommendations.

- I. Focus on immediate and near-term streamlining results** — Ecology recognizes the urgency to streamline its regulatory services to increase cost effectiveness, accountability, and convenience to the regulated community. Ecology has worked on several fronts to demonstrate immediate streamlining success. Highlights of the last several months include:
- Obtaining full "Prevention of Significant Deterioration" Ecology Air Program approval from the U.S. Environmental Protection Agency — Delegation agreement signed February 7, 2002. Removes duplicative federal permitting, compliance, and enforcement. See Appendix A for news release.
 - Developing rules to reduce Ecology Air Program requirements for "insignificant emission units" — Notice of intent to initiate rulemaking to limit resources spent on monitoring, record-keeping, reporting, and certifying compliance of "insignificant emission units" filed February 8, 2002. Effect will be to avoid costly litigation and allow Ecology and industry to focus resources on activities that make a real difference to human health and the environment.
 - Expediting the Ecology water-right decision-making process —
 - Since July 2001, Ecology has doubled the rate of processing water right changes. The increase was made possible by recent water law reforms and expanded funding provided by the Washington State Legislature during the 2001 session. Assuming this level of funding is sustained, Ecology is on track to substantially eliminate the water right change backlog by the year 2006. See Appendix B for news release.

- With passage of recent cost-reimbursement and outsourcing legislation (Chapter 251, Laws of 2000), Ecology was given a new tool to expedite the water right decision-making process. Through implementation by Ecology's Permit Assistance Center, Ecology has entered into 12 cost-reimbursement and outsourcing agreements since the program became fully operational in January 2001. Ecology is now in the process of negotiating with a half dozen or so other applicants who are interested in entering into such voluntary agreements. Through this process, Ecology has rendered decisions on 17 applications in the last 11 months, with the most recent being those associated with the Bear Mountain Ranch project in Chelan County on February 8, 2002. See Appendix C for news release.

➤ Streamlining the 401 Water Quality Certification decision-making process to improve timeliness and predictability — Ecology acknowledges that the present 401 Water Quality Certification decision-making process is often unclear and frequently perceived as inconsistently implemented across the state. Ecology has identified the following immediate actions to improve the clarity and consistency of 401 Water Quality Certification decision-making:

- Develop a standardized system to track permit applications and decision timelines to be instituted statewide by March 15, 2002;
- Initiate a process improvement effort to identify problems, develop solutions, and focus on results to improve timeliness, predictability, and consistency of 401 Water Quality Certifications. A facilitator will be selected to lead Ecology staff in a process similar to that followed by City of Renton in their successful permit improvement initiative; and
- Simplify the conditions and requirements necessary to receive a 401 Water Quality Certification from Ecology through redevelopment of the U.S. Army Corps of Engineers' Nationwide Permits (e.g., consider approving some of the Nationwide Permits denied in the past, reevaluate the need to approve mitigation plans for projects impacting less than 1/10 of an acre of wetlands, etc.). The final 401 Water Quality Certification conditions and requirements on the new Nationwide Permits will be completed by March 15, 2002.

Ecology will additionally propose the 401 Water Quality Certification decision-making process as a focus area for its Regulatory Performance Advisory Group to be convened by April 1, 2002. See Appendix D for an overview of Ecology's Regulatory Performance Advisory Group.

➤ Instituting pre-application meetings — Through formalized pre-application meetings, applicants and agencies can become informed at the earliest project stages about the processes, requirements, standards, timelines, and expectations that will apply to a particular project. Ecology Director Tom Fitzsimmons has asked Ecology's Regional Directors and Permit Assistance Center staff to develop and institute a pre-application meeting process at

Ecology by April 1, 2002. See Appendix E for Director Fitzsimmons' memo requesting formalization of a pre-application conference process at Ecology.

- Streamlining Transportation Permit decision-making — Ecology remains actively engaged in the Transportation Permit Streamlining Process set forth by ESB 6188 (2001 session). Through this process, Ecology is working with local, state, and federal environmental and natural resource agencies to develop and pilot “one-stop” permitting processes, cost-effective mitigation alternatives, and one set of standards for all agencies for select Washington State Department of Transportation project types.

[Note: Ecology is also separately working on the adoption of statewide wetland mitigation banking certification rules (anticipated to be adopted in April 2002) as directed by the Washington State Legislature. Wetland mitigation banking provides a cost-effective alternative approach towards mitigating for impacts to wetlands posed by new development. Wetland mitigation banking provides a streamlined process for compensating for wetland impacts by consolidating required mitigation on one or more sites rather than on many smaller, individual mitigation sites, and as such provides a promising new tool to balance economic growth with environmental protection.]

II. *Reform the regulatory culture of Ecology* — Ecology is developing the organizational capacity and momentum necessary to create lasting regulatory reform and a reinvigorated customer service focus. Activities accomplished so far include:

- Building organizational capacity and commitment.
 - Reassigned executive-level manager to lead Ecology's efforts (Sue Mauermann), and senior-level employee to assist (Scott Boettcher).
 - Assembled internal team of Ecology staff and managers responsible for instituting change within their respective organizational areas.
 - Initiated and are convening an external group of “Regulatory Performance Advisors” to help Ecology with establishing permit timeliness benchmarks, surveying stakeholders, developing business-oriented customer-service standards, initiating and evaluating streamlining pilots, and generally helping and guiding Ecology in forming and implementing an action plan. See Appendix D for a overview of Ecology's Regulatory Performance Advisory Group. First meeting of group is slated for April 1, 2002.
- Engaging all staff.
 - Held all-staff meetings on January 28, 2002 in Lacey and February 12, 2002 in Bellevue to engage and solicit ideas and commitment from staff on the reform and streamlining issues before Ecology.

- Future all-staff meetings will be held on March 12, 2002 in Yakima and March 13, 2002 in Spokane.
- An all-Ecology staff and managers meeting with Governor Locke is in the planning stages for a future date.
- Inviting City of Renton Managers to Ecology — Invited the managers from the City of Renton to meet with Ecology's mid-, senior-, and executive-level managers to describe their experience with regulatory reform and streamlining, as recommended by the Competitiveness Council. Sue Carlson and her staff will join Ecology's March 27, 2002 Executive Management Team meeting.
- Agency Culture — Ecology is defining the elements and practices that will strengthen Ecology's approach toward cultural change, including:
 - Setting clear standards and expectations for customer service, communications, and decision-making;
 - Managing performance relative to stated expectations, standards, and approaches;
 - Identifying skills bases that need improvement;
 - Utilizing organizational development and training to build and improve skills; and
 - Using surveys and focus groups to identify areas needing work.

III. Assess Our Regulatory Performance — Ecology is developing tools to track and improve our regulatory performance, including permit timeliness and responsive service. Activities in progress include:

- Developing baseline permitting and timeliness data for Ecology's core permits (e.g., 401 water-quality certification, water rights, wastewater discharge, shoreline management, and air quality permits). This preliminary data is presented in total in Appendix F, and will be completed and presented to the Regulatory Performance Advisory Group to be used as one diagnostic tool to identify and prioritize streamlining efforts for Ecology's action plan. [Note: Table below provides general format Ecology used to collect preliminary permit timeliness and performance data.]

Preliminary Baseline Permit Timeliness Performance Data		
# of permit applications		
# of permit decisions issued within (calendar days):	Permit	
	#	%
45 days		
60 days		
90 days		
180 days		
1 year		
Greater than 1 year		
Total	# permit decisions (% approval)	
Average	# days	

Note: By law, many of the permits issued by Ecology involve a public-comment and review process typically lasting 30 days.

- Developing customer surveys and focus groups to assess and improve customer service policies, practices, and procedures. Ecology will blend the use of outside survey and research consultant expertise with in-house expertise in designing, implementing, and analyzing customer feedback.

II. Progress Report — Description and Status Report on Ecology Actions Per Competitiveness Council Recommendations

Important Note:

Ecology action and status report descriptions provided below expand upon the Ecology-related recommendations set forth in Section 2.0 (“Regulatory and Permitting Issues”) of the Competitiveness Council Recommendation status report matrix prepared and distributed by the Governor’s Office at the February 28, 2002 Competitiveness Council Meeting.

A. Establish benchmarks for timely permit decision-making.

Ecology Action Elements

Develop permit benchmarking and diagnostic process using following steps:

- Step 1 — . Use existing databases and files to establish baseline data on permit timeliness (preliminary 2/28/02, final 4/01/02);
- Step 2 — Set performance goals and benchmarks based on that done by other agencies and in other states (complete 6/30/02);
- Step 3 — Track and measure progress per those goals and benchmarks (on-going after 6/30/02); and
- Step 4 — Evaluate and diagnose problems on a routine basis to identify opportunities for process improvement (twice yearly, beginning 6/30/02).

Key to this process will be the ability to measure and evaluate Ecology permitting performance against established goals and benchmarks. Use of existing databases and tracking methodologies will largely form the basis behind such evaluations. In the longer-term, a new and more sophisticated permit-tracking system may be required to

Tasks Completed

- ✓ Preliminary baseline data on permit timeliness and performance for Ecology’s core permits has been developed. Core Ecology permits including: 401 water-quality certification; water rights; wastewater discharge permits; stormwater permits; shoreline management act permits; and air quality permits.
- ✓ Preliminary baseline dataset is presented in raw form in Appendix F.
- ✓ Preliminary data will be finalized in time for presentation before the first meeting of the Regulatory Performance Advisory Group (planned for 4/01/02) to be used as one diagnostic tool to identify and prioritize streamlining efforts for Ecology’s action plan.

measure and report permit processing timeliness in greater detail. One such system Ecology is aware of is the EFACTs system used by the Pennsylvania Department of Environmental Protection. Examining this system will be a potential action plan item offered to Ecology's Regulatory Performance Advisory Group.

<p>B. Institute regulatory reform at the Department of Ecology.</p>
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<i>Ecology Action Elements</i>	<i>Tasks Completed</i>
<p>Instituting regulatory reform at Ecology will require organizing for change and setting clear standards and expectations (i.e., encouraging a helpful approach). This will, in turn, require a top-down as well as bottom-up effort to be successful. Key actions will include:</p> <ul style="list-style-type: none"> ▪ Convening an internal advisory committee (complete 4/01/02); ▪ Appointing internal capacity to work directly with the Governor's Office and Paul Isaki, Special Assistant for Business and Regulatory Reform (appoint 2/01/02); ▪ Reaching out, involving and soliciting comments, perspective and culture-change ideas from all staff (complete 3/15/02); ▪ Inviting City of Renton managers to meet with Ecology mid-, senior- and executive-level managers (complete 3/27/02); ▪ Reviewing California and other state experiences (complete 4/01/02); ▪ Soliciting external feedback on Agency services and interactions through survey instruments and focus groups (complete 8/31/02); ▪ Develop expectations and standards for business-oriented customer service, 	<ul style="list-style-type: none"> ✓ Sue Mauermann appointed Agency lead (appointed 1/22/02). ✓ Scott Boettcher appointed to assist Sue Mauermann (appointed 1/22/02). ✓ Created internal staff and manager advisory capacity (2/01/02). ✓ Convened one headquarters and four regional all-staff meetings to discuss improvement ideas (completed 3/13/02).

communication, and decision-making
(complete 6/15/02);

- Identify skill bases that need improvement and initiate development of in-service training program (complete 6/15/02);
- Initiate targeted training program (complete 8/31/02); and
- Looking internally and building on proven successes, e.g., Permit Assistance Center model (on-going).

C. Create a pilot program for permit streamlining.

Ecology Action Elements

Explore various permit-streamlining models and approaches, and identify successful and “exportable” features that can be piloted to improve the overall efficiency and timeliness of the permit decision-making process (complete 6/01/02):

- Other states:
 - California;
 - New York;
 - Pennsylvania;
 - Massachusetts;
 - Etc.; and
- Transportation Permit Efficiency and Accountability Committee (ESB 6188, laws of 2001).

Solicit and participate in permit streamlining pilot projects identified through the Governor’s Office (pilots identified 5/01/02).

Continue to advance, promote, and pilot the “one-stop” permitting approach through the Transportation Permit Efficiency and Accountability Committee (ESB 6188, laws of 2001), and through the three ensuing streamlining pilot projects being undertaken by the Committee (on-going).

Task Completed

- ✓ Are presently piloting a “one-stop” (see Appendix G) permitting approach with the Washington Department of Transportation, the Transportation Permit Efficiency and Accountability Committee, and relevant local, state, and federal permitting agencies for the following projects:
 - Hood Canal Bridge Replacement;
 - State Route 24 Yakima River Bridge Replacement; and
 - I-405/State Route 167.

D. Administratively adopt permit streamlining approaches.

Ecology Action Elements

Redesign the business process for the 401 water quality certification process to be more accountable, effective, efficient, innovative, and customer-focused (complete 12/01/02).

Reassess Ecology requirements for isolated wetlands (complete 6/15/02).

Develop memorandum of understanding with the U.S. Army Corps of Engineers and/or the U.S. Environmental Protection Agency to streamline state/federal interactions and address other streamlining opportunities (complete 9/01/02).

Create alternative wetland mitigation opportunities through a wetland mitigation banking rule. Key milestones include:

- File CR-102 for banking rule and solicit comment (complete 12/17/02);
- Adopt final rule for wetland bank program (anticipated 4/15/02);
- Finalize Memorandum of Agreement with relevant Federal Agencies (anticipated 5/15/02); and
- Institute training for Ecology and other agency regulatory staff on wetland mitigation banking.

Institute a formalized a process for pre-application meetings and pre-submittal conferences that would be available at each of Ecology's four regional offices (complete 4/01/01).

Continue to implement and administer cost-reimbursement and outsourcing contracts with applicants seeking to expedite permit processing timelines where competing staff workloads and staff resource shortages preclude such (on-going).

Tasks Completed

- ✓ Invited City of Renton to share their experience with Ecology's manager (see item B above).
- ✓ Streamlined state/federal interactions as follows:
 - Developed streamlined DRAFT 401 water quality certification conditions for U.S. Army Corps of Engineers' 404 Nationwide Permits presently being rewritten (see item E below).
 - Obtained PSD delegation (see item G below).
 - Clarified regulation of insignificant emission units (see item G below).
- ✓ Developed DRAFT matrix to be used by Ecology managers to track and manage significant projects (draft 2/25/02, final 4/01/02).
- ✓ Filed Draft Wetland Mitigation Banking rule (filed 12/17/01).

E. Require DOE to formally promulgate its 401 certification rules.

Ecology Action Elements

Identify and implement cost-effective administrative actions that can be taken to provide applicants (and Ecology) with the clarity and predictability they expect for the 401 Water Quality Certification process.

Hire process facilitator to work with Ecology to identify administrative actions Ecology could take to streamline the 401 Water Quality decision-making process, and develop internal workload tracking/management assistance tools.

Important Note:

Applicants and agencies alike benefit from administrative rules because they provide clarity and predictability. However, development of effective rules, in Ecology's experience, can be a very time consuming, costly, and procedural endeavor. Typical rule development efforts require the full time attention of a senior-level staff person for 18 to 24 months, facilitators, and attorney general consultation. Rule development would also need specific legislative direction to ensure sufficient buy-in from the state policy making body for rule making in this area. Given the present budget climate, the reality that new resources would be made available for such an effort is highly unlikely. As such, Ecology has elected to initially pursue the above described activities.

Tasks Completed

- ✓ Developed a proposal to hire a process facilitator and develop a workload tracking and management approach (completed 2/28/02).
- ✓ Developed a standardized system to track permit applications and decision timelines to be instituted statewide by March 15, 2002 (on-track).
- ✓ Developed streamlined DRAFT 401 water quality certification conditions for 404 Nationwide Permits through present NWP rewriting process. Final conditions will be adopted by March 15, 2002 and implemented statewide beginning March 18, 2002.

F. Obtain full delegation of federal Clean Air Act permitting.

Ecology Action Elements

Obtain federal delegation of Prevention of Significant Deterioration (PSD) permit to eliminate dual regulation of large industrial

Tasks Completed

- ✓ Delegation agreement signed 2/07/02. Removes duplicative federal permitting, compliance and

sources of air pollution.

Obtain full PSD program approval from EPA. This will eliminate duplicative appeals processes, establish primacy of state rules, and place EPA in the role of commenter rather than decision-maker.

Develop agreement with EPA to limit resources spent on monitoring, record-keeping, reporting, and certifying compliance of “insignificant emission units.” Avoid costly litigation and allow Ecology and Washington industries to focus resources on things that make a real difference to human health and the environment.

enforcement. See Appendix A for news release.

- ✓ EPA agreement in principle to make PSD program approval a priority, reached on 2/21/02. Negotiations to get formal, signed commitment to a timeline for achieving full PSD program approval are in progress.
- ✓ Agreement on proposed rule language reached with EPA by Ecology and representatives of Washington industry on 2/07/02.
- ✓ Notice of intent to initiate rulemaking filed on 2/08/02.

G. Continue making progress on reform of water law.

Ecology Action Elements

Expedite water right decision-making process:

Implement the water law reforms from the 2001 legislative session by processing water right changes in a separate line from applications for new water rights (“two-line” processing).

Using expanded funding provided in July 2001, hire additional staff dedicated to processing water rights changes.

Provide water right applicants with the option of expediting their water right application where they offer to reimburse the Agency for the cost of processing their application (and any older pending applications from the same water source).

Train and provide dedicated technical support to local county water conservancy boards as they help with the job of processing of water right changes.

By 2003, enact additional water law reforms to increase the flexibility and certainty of water rights for public water

Tasks Completed

- ✓ From July through December 2001, Ecology processed 150 water right changes; a processing rate that is more than double the average annual rate from the last several years (120 changes per year) (see Appendix C).
- ✓ Since July 2001, Ecology has hired 30 new permanent staff dedicated to processing water right changes, more than double the number of staff dedicated to this purpose.
- ✓ Ecology currently has 12 voluntary cost-reimbursement agreements for water rights processing. In February 2002, Ecology issued an expedited water right permit for the Bear Mountain Ranch, a 600 unit new resort and golf course to be located west of Chelan (see Appendix D).
- ✓ There are now 20 counties with established water conservancy boards to process water right changes. Of these, 18 have been fully trained and have Ecology staff dedicated to support their work. In 2001, these

supply, agriculture and industrial uses, while retaining or securing sufficient stream flows to sustain fish.

By 2003, secure increased funding for water infrastructure projects, including safe drinking water supplies, water storage to meet multiple purposes, water conservation and reuse projects, and acquisition of water for fish.

boards processed 45 water right changes.

- ✓ The Joint Executive Legislative Water Policy Group continues to work on water reform legislation for consideration during the 2002 session. The current draft bill would improve the certainty of municipal and agricultural water rights, and would provide new tools to solve conflicts (such as allowing industries to secure an exclusive right to wastewater they reclaim from their facilities). Given the short session, the Group has postponed several of the more challenging policy issues until the 2003 session.
- ✓ The Joint Executive Legislative Water Policy Group has drafted a legislative package that would provide new revenue to support \$1 billion in bond funding for water infrastructure projects. Given the attention on transportation funding and the overall state budget problems, this package has been postponed for consideration during the 2003 legislative session.

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III. Appendices

- A. Ecology News Release Concerning Streamlining the PSD Program . . . [pg. 17]
- B. Ecology News Release On Processing Water-Right Applications[pg. 19]
- C. Ecology News Release On Bear Mountain Water Right Decisions [pg. 21]
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Appendix A

Ecology News Release Concerning Streamlining the PSD Program



[Washington State Department of Ecology : Ecology News](#)

Department of Ecology News Release - February 7, 2002

02-022 -- EPA, Ecology Department reach agreement to streamline process for air-quality permit

OLYMPIA -- The process for obtaining a key industrial air-quality permit could be shortened by as much as two months, under an agreement signed today by the federal Environmental Protection Agency and the state Department of Ecology.

Ecology will now have full authority to issue all types of air quality permits on behalf of the EPA for industrial facilities that emit more than 40 tons per year of conventional air pollutants, including permits that regulate emissions of nitrogen oxides. Before, only EPA could issue "prevention of significant deterioration" (PSD) permits for nitrogen oxides, which meant businesses had to go through two separate processes to obtain all of their air permits.

"It has meant more work for our staff to coordinate with EPA, and it added an extra step for businesses, too," said Ecology Director Tom Fitzsimmons. "It has been a high priority for us to get the federal delegation so we could make this permit process work better."

Obtaining federal delegation of the PSD permit was listed in December as a high priority for the governor's Competitiveness Council, of which the Boeing Company was a member.

Kirk Thomson, Boeing's environmental-affairs director, said he welcomed EPA's decision.

"We appreciate the clear delegation of authority to the Department of Ecology. This will allow us to obtain permits in a timely fashion that allows us to do what we need to do, when we need to do it," said Thomson. "We are at our best when we at Boeing are working in close partnership with a professional from Ecology, moving toward the same goal. It means we get to the goal faster, and we get there together."

Ecology began adjusting its regulations more than two years ago to pave the way for taking over sole responsibility for issuing and enforcing PSD permits. The delegation will eliminate a lot of duplication, such as dual signatures on permits and dual levels of review.

"Having this delegation means faster turnaround and less work for all of us, without reducing environmental protection," said Fitzsimmons.

"This is a good step forward for everyone," said Barbara McAllister, EPA's air quality director in Region X. "It will help us focus our resources where they're needed most."

Mary Burg, who manages Ecology's air-quality program, said the delegation agreement is just the first step. Ecology still must adopt a regulation to implement the new federal authority and then get final buy-off from EPA. The rule-making process will take about 10 months, but now "we have a major hurdle behind us," said Burg.

About five PSD permits are requested in Washington each year.

In other developments today, industry representatives have joined Ecology officials today to negotiate an agreement with EPA over what the federal agency will require major industrial facilities to do to certify the safety of thousands of "insignificant emissions" from their plants. The results of those discussions will be announced later.

Media contact: Sheryl Hutchison, Communication Director, 360-407-7004

Air quality Web site: www.ecy.wa.gov/programs/air/airhome.html

Appendix B

Ecology News Release On Processing Water-Right Applications



[Washington State Department of Ecology : Ecology News](http://www.ecy.wa.gov/programs/wr/wrhome.html)

Department of Ecology News Release - January 17, 2002

02-006 -- Ecology doubles its pace of actions on water-right applications

OLYMPIA - Armed with more flexibility and expanded funding authorized by the 2001 legislature, the Department of Ecology (Ecology) has been processing requests for changes to water rights at a rapid rate.

Since the new law and increased funding went into effect in July 2001, Ecology has been moving swiftly to begin reducing a backlog of about 2,000 water-right change requests currently on file. In all of 2001, the agency processed 262 applications to change or transfer an existing water right.

This total does not include another 172 temporary water-right transfers that were approved last summer to help keep water flowing to farms, cities and depleted streams during the state's second-worst recorded drought.

During the previous five years, the agency averaged about 120 actions on change applications a year - not enough to keep up with new requests submitted each year let alone reduce the backlog.

Until July 2001, Ecology was legally obligated to treat all water-right requests the same way, regardless whether someone was seeking a first-time right to access a water source or requesting to change or transfer an existing right.

In response, lawmakers created a new "two-line" system that puts requests for water-right changes and transfers in one line and requests for new rights, which normally take longer to process, in another. In addition, the legislature gave the department greater authority to move past applications at the head of the line that are not ready to proceed. Previously, Ecology had to process applications in the order they were filed, with few exceptions.

The 2001 water-reform package also increased the agency's funding from \$2.2 million in the 1999-2001 biennial budget to about \$7.8 million for the 2001-03 biennium. This allowed Ecology to increase the number of staff who process water-right applications from about 20 to more than 50 positions, 39 of which are dedicated solely to processing water-right changes.

"It feels good to start chipping away at the backlog," said Ecology Director Tom Fitzsimmons. "This shows that when we have adequate resources, coupled with increased flexibility in the law, we can get the job done."

Of the 262 actions taken on change applications in 2001, 150 were approved, 41 denied and 71 were withdrawn by the applicants. Ecology also made decisions on about 100 applications for new water rights in 2001 - with approximately 40 percent being approved.

"If we don't have a drought to contend with this year, I will expect even greater results," Fitzsimmons said.

CONTACT: Curt Hart, Public Information Manager, 360-407-7139; pager, 360-455-2073

For more information: <http://www.ecy.wa.gov/programs/wr/wrhome.html>

Appendix C

Ecology News Release On Bear Mountain Water-Right Decisions



[Washington State Department of Ecology : Ecology News](#)

Department of Ecology News Release - February 8, 2002

02-023 -- Innovative service used to expedite water right for Bear Mountain Resort

YAKIMA - Water has been secured for a new resort and golf course near Lake Chelan using one of the state's new tools for processing water rights.

In an effort to obtain water for the 600-unit development west of Chelan, Bear Mountain Ranch entered into a voluntary cost-reimbursement agreement last year with the state Department of Ecology (Ecology). Working with the agency's Permit Assistance Center, the company took advantage of a law passed in 2000 that gives applicants the option of speeding up the decision-making process for water rights by helping to pay for associated costs.

"In the last several years, we've been working to find creative ways to help move along the state's long backlog of requests for new water," explained Scott Boettcher, who coordinates the permit assistance center for Ecology. "By helping to pay for the technical work it takes to establish a new water right, the company is able to assure itself a faster decision."

In this case, Bear Mountain Ranch was seeking new water from Lake Chelan. To get to the Bear Mountain application, two water-right transfers that were ahead of it in line needed to be processed. Bear Mountain agreed to pay the costs to process two applications for Beebe Orchards of Wenatchee.

Once work on the transfer requests was complete, consultants hired by Ecology could begin work on the Bear Mountain project, Boettcher explained.

In all, Bear Mountain has been authorized to divert 638.5 acre-feet of water per year to serve the resort. The water is available from Lake Chelan as part of an agreement with the Chelan Public Utilities District. As part of its operating plan, the PUD set aside some 65,000 acre-feet of its water for uses other than power generation. Of that amount, about 46,000 acre-feet of water have been allocated over the years.

Bear Mountain still must address wastewater and sewage issues and secure all pertinent state and local permits before the project can proceed.

Contact: Joye Redfield-Wilder, public information manager, 509-575-2610; pager, 509-574-0490

Appendix D

Overview of Ecology's Regulatory Performance Advisory Group

Background

In late 2001, the Governor convened the Washington Competitiveness Council to engage the business community in advancing a competitiveness agenda and improve the state and local governments' responsiveness to businesses suggestions. In December, the Council delivered a report to the Governor with a number of specific recommendations on regulation and permitting, many of which were directed towards the Department of Ecology. Ecology is meeting the challenges posed by the Council by developing an action plan to implement Council recommendations and improve regulatory services. Key to this action plan will be assembly of a group of 15 or so external advisors to assist and guide Ecology in regulatory improvement efforts.

Purpose

The purpose of the group is to advise the Director on implementing regulatory reform and streamlining efforts. Ecology and the group will be initially focused on implementing Competitiveness Council recommendations based on the Governor's priorities, but will also consider additional actions and longer-term processes towards regulatory streamlining initiated independently by Ecology.

The Director and agency managers are seeking:

- continuous feedback on how the agency can more effectively deliver its regulatory services;
- advice on methods to implement specific solutions to targeted problem areas; and
- advice on regulatory system reforms that would allow Ecology to more effectively deliver its regulatory services.

Agenda

The group will advise Ecology on its actions to improve how it delivers its regulatory services to ensure a helpful approach (regulatory reform), as well as how to improve its permitting processes to reduce the time and expense and provide greater certainty (regulatory streamlining). Key elements where Regulatory Performance Advisory Group advice will be sought include:

- creating a benchmarking system for permit timelines;
- diagnosing areas for permit process improvement through a review of:
 - permit timeliness performance data; and
 - case studies;
- developing survey tools/focus groups for feedback on agency services;
- developing and implementing standards for customer service; and
- initiating, implementing, and evaluating piloting efforts.

Processes

The group will meet on an as-needed basis, with more frequent meetings over the next six months. Meetings will be informal, and may be conducted through telephone conference calls. Regulatory Performance Advisory Group members will be asked for advice, feedback and perspective rather than consensus recommendations on agenda items listed above.

Because the group will operate in an informal manner, there will be no meeting minutes. Work products may be identified in the future, but are not anticipated at this time.

Appendix E

Director Request For Pre-Application Conference Process




STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

February 27, 2002

TO: Regional Directors
FROM: Tom Fitzsimmons 
SUBJECT: Pre-Application Conferences

By way of this memo I am asking each of you to work within your respective regions to formalize a pre-application meeting/pre-submittal conference process. This process should be open to any and all applicants; however, as a matter of priority, the effort should target those applicants whose projects are complex. Key elements of the process should include:

- Make it optional (but highly recommended);
- Have it apply initially to Ecology permits and approval; however, set the structure such that other Agencies could participate in time per their permits, and approvals;
- Create an expectation that Agencies and the Applicant are to both bring forth their best information;
- Have the outcome and commitments of all parties documented in a letter signed by the Regional Director; and
- Set timeline and schedule expectations and commitments for the Applicant and Agency alike.

A logical point of coordination for this process would be the Permit Assistance Center (PAC). As such, please work closely with the PAC. Please also work with the Program Managers to reinforce the expectation that Agency staff are to bring forth to this process their best and most accurate information regarding timelines, requirements, standards, etc. I am asking that a process be brought forth and finalized by April 1, 2002.

CC: EMT
Permit Assistance Center



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Appendix F

Preliminary Baseline Data -- Permitting/Timeliness Performance

Important Note:

Following data reflects Ecology's first attempt to cull through its databases and hard copy files to develop a preliminary baseline dataset on its permit timeliness and permit processing performance over the past few years. As a standalone dataset, absent meaningful benchmarks, the raw information does not tell its own story. Ecology will work to refine this data set and present it in a final form by April 1, 2002 for consideration and discussion by the Regulatory Performance Advisory Group (see Appendix D). Notwithstanding the limitations of this preliminary dataset, and the lack of benchmarks with which to make meaningful comparisons and evaluations, the exercise of trying to get Ecology's databases and hardcopy files to report permit timelines and performance data was in and of itself a very worthwhile exercise, and one which has illuminated several areas for focused Ecology attention.

- A. Wastewater Discharge Permits** — Required for discharging: (1) industrial, commercial, or municipal waste waters to ground water; (2) industrial or commercial wastes to municipal sanitary sewer systems; or (3) using water reclaimed from sewage treatment plants.

New Individual Wastewater Discharge Permits

How Long did it Take? Days from Application Received to Issuance	New Individual NPDES		New Individual State	
	#	%	#	%
Less than 45 Days	0	0%	5	14%
46 to 60 Days	0	0%	2	6%
61 to 90 Days	1	6%	7	19%
91 to 180 Days	7	39%	11	31%
More than 180 Days (6 months)	10	56%	11	31%
Average # of Days	226 days		134 days	
# of Permits Issued	18		36	

Renewed Individual Wastewater Discharge Permits

How Long did it Take? Days from Permit Expiration Date* to Issuance Date	Individual NPDES Renewal		Individual State Renewal	
	#	%	#	%
0, (permit did not expire before renewed)	44	37%	77	48%
1 to 45 Days	11	9%	34	21%
46 to 60 Days	4	3%	6	4%
61 to 90 Days	4	3%	4	2%
91 to 180	21	18%	18	11%
More than 180 Days (6 months)	35	29%	22	14%
Average # of Days	126 days		67 days	
# of Permits Issued	119		161	
Approx. Variability of WPLCS data	1.7%		2.5%	

New General Wastewater Discharge Permits

Number of Days from Application Date to Effective Date	Type of General Permit									
	Boatyard		Dairy		Fruit Packers		Municipal Stormwater		Sand & Gravel	
	#	%	#	%	#	%	#	%	#	%
Less than 45	4	57%	13	33%	0	0	2	25%	68	49%
46 to 60	0	0	5	13%	2	20%	1	12.5%	20	14%
61 to 90	3	43%	2	5%	3	30%	1	12.5%	17	12%
91 to 180	0	0	9	23%	4	40%	4	50%	20	14%
More than 180	0	0	10	26%	1	10%	0	0	16	11%
# of permits	7		39		10		8		141	
Average	36		121		108		74		93	

B. Stormwater Permits — Required to protect water quality and prevent erosion from run-off associated with storm events.

Applications

Type of Stormwater	Total # of Applications	Total # of Facilities Issued Coverage
Construction	1077	675
Industrial	1132	1252
Total	2209	1927

Timeline

# of Permit Decisions Issued within:	Construction		Industrial	
	#	%	#	%
45 days	216	79%	34	71%
60 days	38	14%	6	13%
90 days	10	4%	4	8%
180 days	6	2%	2	4%
1 year	3	1%	2	4%
Greater than 1 year	0	0	0	0
Total	273		48	
Average	42 days		44 days	

C. Shoreline Management Act Permits — Required for developing or conducting an activity valued at \$2,500 or more on, or materially interfering with the normal public use of, the water or shorelines of the state.

New Shoreline Permits

Number of Permit Decisions Issued Within:	Type of Shoreline Permit Application			
	Conditional Use Permit		Variance	
	#	%	#	%
Less than 45 days	137		114	
45 to 59 days	5		5	
60 to 89 days	2		3	
90 to 179 days	0	0	2	
180 to 365 days	0	0	0	0
Greater than 365 days	0	0	1	
Total # of permits	144		125	
Average # days	18 days		22 days	

D. Water Right Permits — Required for the use or withdrawal of surface or ground water.

Water Right Processing

Number of Permit Decisions Issued Within:	Type of Water Right Application			
	Changes		New Water	
	#	%	#	%
Less than 6 months	103	20	11	6
6 months to 1 year	69	13	9	5
1 year to 2 years	87	17	28	15
Greater than 2 years	265	50	139	74
Total # of applications	920		420	
Average # days	unknown		unknown	

Number of Applications in Water Right Backlog as of June 30, 2001

Application Type:	Number:
Change Applications	2000
New Water Applications	5400
Total Applications	7400

E. 401 Water Quality Certification Permits — Required where a federal license or permit is required to conduct any activity that might result in a discharge of dredge or fill material into water or wetlands, or excavation in water or wetlands.

Number of 401/CZM Actions — January 1999 to December 2001

Region	# of Individual 401	# Denied	# of NWP LOV's	# of CZM's
CRO	14		26	
ERO	3		22	
HQ				123
NWRO	36	6	6/001 - 12/01 104	6/01 - 12/01 104
SWRO	47		238	3
WSDOT	5	0	40	26
Total	105	6	430	256

F. Air Quality Permits — Required to control emissions for open burning, and from sources that emit or release pollutants into the air (business or industry).

New Source Review Program

		Days since application received					
	Total actions	<45	45 - 60	60-90	90-180	180-365	>365
Total NSR Issued	114	27	12	12	36	15	12
Total NSR not yet Issued	61	11	0	1	10	11	28
PSDs, Issued	4	0	0	0	1	1	2
PSD, not issued yet	7	2	0	0	3	2	0

Air Operating Permits

		Days since application received					
	Total actions	<45	45 - 60	60-90	90-180	180-365	>365
AOP permits issued	9	1	1	1	2	1	3
AOP permits not yet issued	4	0	0	0	0	1	3

Appendix G

DRAFT One-Stop Permitting Process for Transportation Projects

In accordance with ESB 6188 WSDOT Environmental staff will draft a unified permit, in a format agreed upon by the agencies, conditioned to comply with environmental requirements and best management practices set forth in federal, state and local laws and regulations, and applicable written guidance developed thereunder.

Step 1. Project Definition / Interdisciplinary Teams

Appropriate agencies will be contacted at the time of Project Definition for the formation of Interdisciplinary (ID) Teams for projects not covered by programmatic permits. ID Teams of WSDOT, permitting/resource agency, and private or public sector discipline experts (including engineers) will be chartered and convened to define the project's impacts and elicit input from the agencies and others for the level of detail, appropriate avoidance, minimization and type and place of mitigation, and conditions for the permit. The ID Team will remain in existence from Project Definition into Design through Plans Specifications & Estimates (PS&E) and construction, in order to influence and respond to design and construction changes.

The ID Team will develop a charter to address such items as permitting and meeting schedules, communication protocol, and other coordination issues. The time period for Step 1 could range from one meeting to in excess of one year, depending upon the complexity of the project.

Step 2. Draft Unified Permit (WSDOT Prepared)

The collaborative effort in Step 1 would then be reflected in a unified permit drafted by WSDOT during Step 2. WSDOT-initiated consultation with the ID Team may occur at this step as necessary to clarify permit requirements.

Step 3. Public Review Period / Concurrent Agency Reviews

The draft unified permit will be submitted to the agencies for review and comment, and public notice initiation, in conformity with applicable statutes and regulations. The review period for the draft permit in Step 3 is established by the longest of the statutory public involvement periods, or statutory timeframes within which a permitting agency must make a permit decision. The latter can be shortened by an agency if within their authority, as a function of schedule setting in Step 1. Any required public hearings would take place in Step 3. At the end of the review period for the draft unified permit, WSDOT will consider and respond to all comments, applying relevant requirements. WSDOT will revise the draft permit as necessary in response to comments. WSDOT will notify the agencies at least 15 days in advance of resubmittal of the draft unified permit, in order to allow for workload adjustments.

Step 4. 30 Day Final Agency Permit Review – Approval Step

WSDOT will resubmit the unified permit to all agencies for final review. All reviews of the final document will be completed within thirty days, at which time the permitting agencies will act upon the permit by either approving the permit or returning it without approval. If the permit is returned without approval, the permitting agency must identify errors or

omissions and any remaining specific deficiencies or circumstances not previously addressed by agreements between WSDOT and agencies, which must be met or addressed to be compliant with applicable law. Agencies withholding approval have this one opportunity to identify permit deficiencies.

Step 5. 15 Day Deficiency Review / Final Action

WSDOT may revise the permit as warranted and resubmit the permit to the permitting agency, which will have fifteen days from receipt of the revised permit to take final action.

Step 6. Dispute Resolution

Disputes related to permit decisions at any step in the process would be addressed by the dispute resolution process established by the TPEAC committee (*This may require further action by TPEAC to transfer oversight to another group in the event that TPEAC sunsets*).

Step 7. Performance Reviews & Audits

The agencies will perform periodic auditing of the WSDOT process, performing project visits for compliance, and review of monitoring data. WSDOT would be able to compile data from this process to measure its performance in terms of permit compliance, environmental benefit, project delivery, and cost savings.

Permit Scope

This permit may be expanded or contracted to fit the unique issues for a project and may include Federal, State and Local jurisdictions, and any number of media such as Air, Watershed, Water Quality, Water Resources, other Aquatic Resources, Noise, Wetlands, Streambank Protection, Shorelines, Hazardous Materials, Erosion Control, or other environmental elements that may require approval by regulatory bodies. This process is a natural extension of the NEPA/SEPA documentation process, and would not supplant early involvement by resource and regulatory agencies therein, and could truly streamline the process.

Version 8
2-08-02

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Appendix H

Washington Water Action Strategy — Water Legislative Strategy

At the beginning of the 2001 legislative session, Governor Gary Locke outlined a multi-year plan for making needed changes to the state's water laws.

Water system improvements to meet immediate needs *(Session 2001 accomplishments)*

- Increased funding for watershed planning groups (for setting instream flows, conducting water quality studies, and evaluating water storage)
- Prioritized and funded work on setting instream flows
- Created “two lines” to prioritize/process changes separately from new water permits; and provided funding to expedite processing of water right changes
- Affirmed the authority of conservancy boards to process all water right changes, and clarified the accountability and liability of board members
- Allowed family farm water permits to be converted to other uses (e.g., in urban growth areas)
- Provided utility tax incentives for water conservation and reuse
- Encouraged donations of water to the trust water rights program
- Amended relinquishment of water rights for weather patterns, crop rotation, conservation of electrical power, use of return flows and participation in the Yakima enhancement program
- Allowed food processors an “exclusive right” to reclaimed water
- Funding for fish – to buy/lease water rights; and for on-farm conservation (savings to the stream)
- Funding for water management – water use metering and stream flow monitoring

A water code for the future of Washington *(Objectives for Legislative Session 2002)*

- Setting and achieving instream flows (water for fish)
 - Decide on stream flows required to ensure healthy fish populations
 - Specify how and when those flows will be achieved
- Safe and reliable water supplies for Washington's communities (public water system rights)
 - Allow public water systems to grow into their existing rights with certainty
 - Allow public water systems the flexibility to move unused rights to meet the needs of growth
 - Define conservation and environmental obligations of public water systems
- Update "use it or lose it" policies to provide incentives to save water
 - Crop patterning won't cause loss of water rights
 - Allow water rights to be safely reserved and dedicated to future uses
 - Provide longer timeframes before an unused water right is lost

Legislation to Implement Water Law Reforms *(Objectives for Legislative Session 2003)*

- Funding for water infrastructure, including drinking water and water storage
 - Safe drinking water ~ funding for treatment, conservation and reuse (\$350 M)

- Water storage ~ funding for multipurpose water storage projects (\$350 M)
- Agricultural water supply ~ funding for reliability and efficiency projects (\$150 M)
- Additional funds to lease, buy or otherwise acquire water rights for salmon (\$75 M)
- Funding for watershed plan project implementation (\$75 M)
- Implementing regional water management initiatives
 - State water management program for the Columbia River
 - Regional flexibility in Central Puget Sound
 - Yakima Basin action agenda
- Other needed improvements to the water resource management system